

EMBASSY OF JAPAN
2520 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20008
(202) 939-6700

RECEIVED

MAR 10 1997

DOCKET FILE COPY ORIGINAL

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

FB 96-261

10 March, 1997

William F. Caton
Acting Secretary
Office of the Secretary
Federal Communications Commission
1919 M Street N.W.
Washington, D.C. 20554

Dear Mr. Caton:

I refer to the Federal Communications Commission's Notice of Proposed Rulemaking adopted on December 19, 1996. Please find attached the Japanese Additional Comments on the International Settlement Rate benchmark proposed by Federal Communications Commission (FCC). I would be very grateful if you take our comments fully into consideration.

Sincerely,


Junichiro Miyazaki

Counselor of Embassy of Japan

Attachments:

Additional Comments on the International Settlement Rate benchmark proposed by
Federal Communications Commission (FCC)

cc: Mr. William Corbett, Office of U.S. Trade Representative

Mr. Richard Beird, U.S. Department of State

No. of Copies rec'd
List ABCDE

026
FB

Additional Comments on the International Settlement Rate
benchmark proposed by Federal Communications Commission (FCC)

The Government of Japan (GOJ) hereby submits the following comments in response to the Commission's Notice of Proposed Rulemaking ("NPRM" (IB Docket No.96-261)), in addition to the comments of February 6. The comments of this time focus on the points not covered in the previous comments, including the method of calculating the benchmark. In light of the agreement reached in WTO/GBT negotiations, the GOJ hopes that the NPRM will be revised in line with its comments submitted thus far. The GOJ also wishes to emphasize that the FCC has failed to timely respond to our requests for clarification as laid out in our previous comment, thereby causing difficulty to our examination of the NPRM.

1. Total Service Long Run Incremental Cost (TSLRIC)

The NPRM stipulates that the settlement rates for IMTS from the U.S. to foreign countries should be calculated based on the TSLRIC (paragraph 31-). The countries concerned, however, have not achieved a consensus on the specific method of "making international settlement rates cost-based." Even in the U.S., we understand that there is no agreement on the application of the FCC rules including TSLRIC as far as the interconnection of subscriber facilities is concerned. Therefore, TSLRIC might be one of the possible options for calculating international settlement rate, and yet it is not appropriate to conclusively regard TSLRIC as the only option at this stage.

2. Classification of Countries Based on Level of Economic Development

The NPRM suggests that the upper end of the benchmark calculated for each country based on tariffed components prices (TCP) be averaged into three categories, in accordance with the level of economic development. This suggestion is premised upon

the notion that there is a general correlation between the level of TCP and that of economic development (paragraph 43). As indicated by the FCC proposal itself (paragraph 43), nevertheless, such premise has not been substantially proven.

The actual amount of the cost component, on which the tariff is based, varies from one country to another. Moreover, if the possibility of cross-subsidization between services is taken into consideration, it is inappropriate to conclude that the divergence in the TCP reflects the degree of efficiency in each country (paragraph 45). The GOJ thus argues that averaging the TCP of each country based on the level of economic development is not an appropriate measure for analyzing cost.

3. Upper End of the Benchmark on the U.S. side and Flexibility Order

In the NPRM, the upper end of the benchmark ranges on the U.S. side is not calculated with regard to communications between the U.S. and other countries. The upper end of the benchmark on the U.S. side, as well as the detailed process of benchmark calculations for all countries, should be clearly described.

Furthermore, if cost-based settlement rates are to be sought for each country, it is inappropriate to use the equal revenue division system (paragraph 47). If the purpose of the NPRM is to ensure that the settlement rates borne by the carriers are cost-based, the unequal revenue division system should be applied. It is our understanding, according to the U.S. settlement rate policies based on the Flexibility Order, that the equal revenue division system is the basis of settlement rate and it does not apply to the countries which satisfy the ECO test. We believe, therefore, that the FCC's plan on the NPRM to achieve cost-based settlement rates contradicts its own stance to uphold the principle of the equal revenue division system.

4. Lower End of Benchmark

The NPRM sets a lower end for the benchmark (paragraph 50), which is

calculated into 6-9 cents for all countries based on estimates of AT&T's average cost of terminating inbound international calls. The GOJ believes that it is unreasonable to use AT&T's costs for foreign carriers because, as mentioned earlier, the actual amount of the cost component varies for each country, and AT&T's advantages in terms of its economic scale far exceed any other carrier around the world. Furthermore, it should be noted that the FCC's proposal is simply based on the AT&T estimate without showing any rational basis.

5. Application of Benchmark to Competitive Markets

The NPRM suggests that the FCC forbear the application of its benchmark rates where there is effective competition on a route and where substantial progress has been made toward achieving rates that represent the incremental cost of terminating international service (paragraph 69). It is unclear how and by whom those "effective competition" and "substantial progress" will be determined. If the benchmark rule is not properly applied, this may also lead to a violation of MFN principle.